

REMARKS

Status of Claims

Claims 7 and 12 are pending in the application. Claims 7 and 12 are rejected.

Claim Rejections - 35 U.S.C. § 103

Claims 7 and 12 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Rogers et al. (WO 0031032, IDS 02/23/2005) for reasons of record. Specifically, the Examiner maintains that the presently claimed compounds are structural homologues of the compounds of Rogers et al., and, thus, are *prima facie* obvious over Rogers et al.

In response to this rejection in the prior Office Action, Applicant amended claim 7 to recite that “n” is 0.

The Examiner has considered Applicant’s response; however, the Examiner apparently considers that the deletion of the CH₂ group does not prevent the compounds of the present invention from being homologues of the compounds of Rogers et al.

For the following reasons, the rejection is traversed, respectfully.

Applicant submits that with n defined as 0, none of the compounds of Rogers et al. can be considered a homologue of the presently claimed compounds. Thus, it is improper for the Examiner to rely on the law relating to homologues. Further, because compounds having no corresponding CH₂ group are not homologues of compounds having one CH₂ group, one of ordinary skill in the art would not be motivated to remove the CH₂ group from the reference compounds.

In addition, in view of the amendment, the cases that hold that a genus that encompasses a species makes the species *prima facie* obvious are not relevant. This is because the Rogers et al. genus does not include the claimed compounds. Rather, the Examiner has to add the extra step of further modifying the Rogers et al. compounds, which, involves the improper use of hindsight.

In this respect, Applicant has requested a three-month suspension of action to prepare a Rule 132 Declaration supporting Applicant's factual position. The Examiner is requested to consider the Declaration when filed.

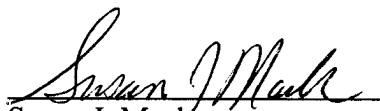
If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

REPLY UNDER 37 C.F.R. § 1.114(c)
U.S. Application No.: 10/031,698

Attorney Docket No.: Q68142

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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Date: October 26, 2007